

DG 01-181

**ENERGYNORTH NATURAL GAS, INC. D/B/A  
KEYSPAN ENERGY DELIVERY NEW ENGLAND**

**2001/2002 Winter Cost of Gas**

**Order Approving Temporary Cost of Gas Rate,  
Fixed Price Option Rate and  
Local Distribution Adjustment Charge**

**O R D E R N O. 23,828**

**October 31, 2001**

**APPEARANCES:** McLane, Graf, Raulerson, and Middleton by Steven V. Camerino, Esq. on behalf of EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England; Office of the Consumer Advocate by Kenneth E. Traum on behalf of residential utility consumers; and Marcia Thunberg, Esq. for the Staff of the New Hampshire Public Utilities Commission.

**I. PROCEDURAL HISTORY**

On September 17, 2001, EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England (KeySpan), a public utility engaged in the business of distributing natural gas in 29 cities and towns in southern and central New Hampshire and the City of Berlin in northern New Hampshire, filed with the New Hampshire Public Utilities Commission (Commission) its Cost of Gas (COG) for the 2001/2002 winter period. Accompanying its COG filing was a Motion for Protective Order and Confidential Treatment, which was granted September 21, 2001 by Order No. 23,781. KeySpan's filing included the direct testimony and supporting attachments of A. Leo

Silvestrini, Director of Rates and Regulatory Affairs, and Theodore E. Poe, Energy Planning Manager.

An Order of Notice was issued on September 20, 2001 setting the date of the hearing for October 19, 2001.

On September 24, 2001, the Office of the Consumer Advocate (OCA) filed a Notice of Intent to Participate in this docket on behalf of residential utility consumers pursuant to the powers and duties granted to the OCA under RSA 363:28,II. There were no other intervenors in this docket.

On September 28, 2001, KeySpan filed its proposed Fixed Price Option (FPO) rate for the 2001/2002 Winter Period and supporting schedules. On October 9, 2001, KeySpan filed revised COG and FPO rates for the 2001/2002 Winter Period.

On October 18, 2001, Staff filed the Joint Direct Testimony of Stephen P. Frink, Assistant Finance Director, and Stuart A. Hodgdon, Chief Auditor, recommending approval of the proposed COG and FPO rates and Local Distribution Adjustment Clause (LDAC) on a temporary basis pending a complete refiling, extensive review and Commission hearing.

A duly noticed hearing on the merits was held at the Commission on October 19, 2001.

## II. POSITIONS OF THE PARTIES AND STAFF

### A. KeySpan

Mr. Leo Silvestrini, Director of Rates and Regulatory Affairs for New England, testified on behalf of KeySpan. Although the COG filing, the FPO filing and the revised COG filings submitted by KeySpan were entered as exhibits, in light of Staff's testimony, Mr. Silvestrini did not swear to the accuracy of those exhibits or adopt them as his testimony. The witness summarized the rates that KeySpan proposed and that Staff recommended be put into effect on a temporary basis.

KeySpan stated that it had only received Staff's testimony the day before the hearing and asked to reserve the right to do a more detailed cross-examination of the Staff witnesses at a future date. KeySpan stated that it understood the import of Staff's testimony and intended to meet with Staff to address Staff's concerns.

### B. OCA

The OCA supported Staff's proposal to implement the COG rates on a temporary basis, but expressed a concern that given the deficiencies of the filing as described by Staff, the initial winter rates may not be the appropriate rates to be charging customers. While the gas costs are reconcilable

and any over or under collection would be corrected in a future filing, the "cost of money" could adversely impact ratepayers. The OCA suggested that any over collection be refunded at a "consumer interest rate," such as one and one half percent (1.5%) per month.

The OCA also recommended that if the FPO rates were found to be incorrect as a result of the filing deficiencies, any resulting over collection be credited to the FPO customers and any under collection be the responsibility of KeySpan's shareholders.

**C. Staff**

Staff witnesses Stephen P. Frink, Assistant Finance Director, and Stuart A. Hodgdon, Chief Auditor, testified that Staff was unable to render an opinion as to the appropriateness of the proposed rates and recommended that the proposed rates be implemented on a temporary basis only, pending a revised filing and future hearing.

Staff testified that the filings were untimely, inadequate and inaccurate. Along with citing errors in the filing, Staff pointed out KeySpan had not met a number of its Commission reporting requirements which are needed to cross-reference the information contained in the filing. Mr. Hodgdon testified that the Staff's audit of last winter's COG

costs and this winter's COG filing had revealed errors totaling approximately \$500,000. Based on those findings, it was Mr. Hodgdon's recommendation to expand the audit.

Staff testified that the Commission had hired a consultant to assist in the review of KeySpan's COG filing and that the consultant, GRC Associates, Inc., in reviewing the completeness of the filing in terms of providing the depth of information available to allow for analysis by Staff, found that:

The Company's winter 2001-02 [COG] filing did not include any supporting documentation regarding pricing, contracts, and intercompany transactions. The Company should routinely include this information in future filings.

Staff pointed out that the inadequacy of KeySpan's COG filings had been raised as an issue in a prior COG proceeding and the Commission had directed KeySpan, in Commission Order No. 23,668 (March 29, 2001) approving Keyspan's 2001 Summer COG, to work with Staff to address the issue of deficient filings.

Staff also pointed out that the Commission had warned KeySpan about deficient filings as recently as last February, stating in Order No. 23,643 (February 23, 2001) approving KeySpan's revised 2000/2001 Winter COG: "We are similarly disturbed by the numerous errors in the filings as well as the multiple and incomplete nature of several of the

filings. KeySpan is cautioned that future filings that do not comply with Commission rules may not be accepted."

Staff testified that it had provided KeySpan with a copy of a Northern Utilities, Inc. COG filing and recommended KeySpan use it as a 'template' in preparing its future filings. Staff averred that KeySpan ignored the Commission's previous urging to correct deficiencies as well as Staff's follow-up recommendations and made no attempt to improve its filings. In light of this history, Staff recommended that the Commission approve the rates proposed in KeySpan's COG filing on a temporary basis so that rates could be in place for November 1, 2001; however, the portion of LDAC relating to expenses incurred in the Gas Restructuring docket, DE 98-124, should be adjusted to reflect Staff's recommendation in that docket to disallow certain expenses related to a particular consultant. Staff also recommended that the Commission require KeySpan to submit a revised COG filing in a format very similar to that of Northern's COG filing and incorporate schedules recommended by the Commission's consultant by January 1, 2002. Further, Staff requested that the Commission require KeySpan to file all missing monthly reports that were previously provided by EnergyNorth Natural Gas, Inc., also to

be due January 1, 2002, and that a hearing date be set to determine rates for the remainder of the period.

### **III. COMMISSION ANALYSIS**

Based on Staff's testimony which was supported by the OCA, and hearing no objection from KeySpan, we will approve Staff's recommendation. The rates proposed in KeySpan's 2001/2002 Winter COG filing, with the exception of the proposed restructuring surcharge related to docket DE 98-124 which is to be set at the per therm rate recommended by Staff, are approved on a temporary basis pending a revised 2001/2002 Winter COG filing, review and hearing. We grant KeySpan's request to allow it the opportunity for a more detailed cross-examination of the Staff witnesses at the future COG hearing, if KeySpan so desires.

We are extremely concerned with KeySpan's reporting failures and its disregard of our directive to improve its COG filings, particularly as Staff provided direction and an example of its expectations as to what constitutes an adequate filing. While one may speculate as to the reasons for such non-compliance, the fact remains KeySpan is not meeting its reporting obligations. Although Staff has not recommended a show cause hearing or fines for failure to comply, we will

consider such action if KeySpan does not fully comply with the immediate order and satisfy its reporting and filing requirements.

The rates proposed in the COG filing are all reconcilable and while KeySpan customers will ultimately pay the actual gas costs for the period, there does exist the issue of the time value of money. Many of the proposed rates are designed to account for carrying costs on over or under collections, thereby eliminating or reducing the risk of economic loss to both the shareholders and ratepayers. The OCA makes a valid point that customers could be harmed by deficiencies in the filing, an issue we will address in the hearing on the revised 2001/2002 Winter COG filing, if in fact, such a situation arises.

To help limit the risk involved in taking the unprecedented action of implementing temporary COG rates due to an inadequate record, we will set a procedural schedule that includes a technical session prior to the filing, to permit Staff to detail what KeySpan must file to facilitate Staff's review, and filing and hearing dates that will allow for Commission review and determination of permanent rates effective January 1, 2002.

We will set a hearing date of December 21, 2001 to



consider KeySpan's revised 2001/2002 Winter COG filing and determine if its filing deficiencies resulted in an over or under collection and how related carrying costs should be treated. At that time, we will also consider whether further action should be taken regarding a show cause hearing and/or fines, pursuant to NH RSA 365:41 and 365:42, for failure to comply with Commission directives and Orders, as required by NH RSA 365:40.

**Based upon the foregoing, it is hereby**

**ORDERED,** that KeySpan's proposed 2001/2002 Winter COG and FPO per therm rates for the period of November 1, 2001 through April 30, 2002 are APPROVED as temporary rates only, effective for service rendered on or after November 1, 2001 as follows:

	Cost of Gas	Minimum COG	Maximum COG	Fixed Price Option
Residential	\$0.4896	\$0.3917	\$0.5875	\$0.5141
C&I, low winter use	\$0.4361	\$0.3489	\$0.5233	\$0.4579
C&I, high winter use	\$0.4988	\$0.3991	\$0.5986	\$0.5238

**FURTHER ORDERED,** that KeySpan may, without further Commission action, adjust the temporary COG rates upward or downward monthly based on KeySpan's calculation of the

projected over or under collection for the period, but the cumulative adjustments shall not exceed twenty percent (20%) of the approved unit cost of gas, the minimum and maximum rates as set above; and it is

**FURTHER ORDERED,** that KeySpan shall provide the Commission with its monthly calculation of the projected over or under calculation, along with the resulting revised COG rates for the subsequent month, not less than five (5) business days prior to the first day of the subsequent month. KeySpan shall include a revised tariff page 49 - Calculation of Firm Sales Cost of Gas Rate and revised rate schedules if KeySpan elects to adjust the COG rates; and it is

**FURTHER ORDERED,** that the over or under collection shall accrue interest at the Prime Rate reported in the *Wall Street Journal*, to be adjusted each quarter using the rate reported on the first date of the month preceding the first month of the quarter, pending further Commission action following a revised 2001/2002 Winter COG filing and hearing; and it is

**FURTHER ORDERED,** that KeySpan's proposed 2001/2002 Local Distribution Adjustment Clause per therm rates for the period November 1, 2001 through October 31, 2002, except for the Rate Case Expense Surcharge which is currently in effect

and expires on April 30, 2002 and the Gas Restructuring Expense Surcharge which is set at the rate recommended by Staff, are APPROVED on a temporary basis effective for service rendered on or after November 1, 2001 as follows:

	Demand Side Mgmt.	Gas Holder Remed.	Envir. Remed.	Gas Restr. Costs	Rate Case Expense	LAC
Residential Heating	\$0.0000	\$0.0030	\$0.0137		\$0.0009	0.0176
Residential Non-heating	\$0.0000	\$0.0030	\$0.0137		\$0.0009	0.0176
Small C&I	\$0.0000	\$0.0030	\$0.0137	\$0.0020	\$0.0027	0.0214
Medium C&I	\$0.0000	\$0.0030	\$0.0137	\$0.0020	\$0.0027	0.0214
Large C&I	\$0.0000	\$0.0030	\$0.0137	\$0.0020	\$0.0027	0.0214

**FURTHER ORDERED,** that KeySpan's proposed Firm Transportation Winter COG rate of \$0.0024 per therm for the period of November 1, 2001 through April 30, 2002, is APPROVED; and it is

**FURTHER ORDERED,** that the Commission waives N.H. Admin. Rules Puc 1203.05(b) and will allow KeySpan to implement its 2001/2002 Winter COG rates on a service-rendered basis; and it is

**FURTHER ORDERED,** that the following procedural schedule:

Technical Session to Discuss  
COG Filing Requirements

November 8, 2001

Testimony and Supporting  
Schedules by KeySpan

November 30, 2001

Hearing - 10:00 a.m.

December 21, 2001

is established; and it is

**FURTHER ORDERED,** that KeySpan shall file properly annotated tariff pages in compliance with this Order no later than 15 days from the issuance date of this Order, as required by N.H. Admin. Rules, Puc 1603.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of October, 2001.

---

Thomas B. Getz  
Chairman

---

Susan S. Geiger  
Commissioner

---

Nancy Brockway  
Commissioner

Attested by:

---

Claire D. DiCicco  
Assistant Secretary